

Washington State Department of Agriculture CR-102 Form-Attachment (c) Summary:

Proposed Adoption of Chapter 16-252 WAC Commercial Feed Rules: Pet Food and Specialty Pet Food

The proposed new chapter 16-252 WAC creates a set of regulations that are easy to understand and use, reflect current national standards as expressed in the Association of American Feed Control Officer (AAFCO) model regulations, safeguard public health and the health of animals, establish a structure for orderly commerce with other states by ensuring that WSDA pet food/specialty pet food rules are consistent with AAFCO model regulations, and provide protection for consumers and the regulated industry.

Many of the requirements in the proposed new pet food/specialty pet food chapter are either identical or substantially the same as the pet food/specialty pet food requirements in the current rule sections (WAC 16-200-750 through WAC 16-200-887). However, we have added several new requirements to increase the protection of pets, consumers and industry. We have also written the proposed new chapter more clearly and organized it in a more “user friendly” way than the current rules.

Specifically, the new pet food/specialty pet food chapter:

(1) Safeguards public health, pet health and provides increased protection for consumers and the pet food/specialty pet food manufacturers and distributors operating in Washington State.

To achieve this, we have strengthened commercial pet food/ specialty pet food labeling requirements in WAC 16-252-025 to:

- Improve our ability to track pet food from the manufacturer to the final distributor (WAC 16-252-025(11). In the event of a recall, this lot identifier will increase the effectiveness of the recall and improve pet food safety. Also, by adding this lot identifier requirement, the department voluntarily complies with federal regulations. Now, under the Federal Bio-terrorism Act, the Food and Drug Administration is requiring that all animal food be traceable from the manufacture through final distribution.
- Prevent misleading labeling (WAC 16-252-025(4), (12), (13), (14), (15), (17), (18), (19), (20) and (21)).
- Prevent someone from using a statement based on data from an outdated study that fails to recognize changes made to a comparison products (WAC 16-252-025(18)(d).
- Prevent old products from being called “new”, which would be misleading (WAC 16-252-25(20).
- Prevent a product label from being designed so it appears that the product contains an ingredient, when in fact it only contains a flavor of a certain ingredient (WAC 16-252-025(21)(b) and (c).
- Make companies aware that when the term “organic” is used on a label it has a specific meaning and additional regulations apply (WAC 16-252-025(23).

In addition, the department has proposed new requirements to:

- Prevent someone from using misleading product names (WAC 16-252-040). For example, the requirement prevents a product name from being “Lamb, with Rice” when there is actually only a small amount of lamb in the pet food or specialty pet food.
- Ensure uniform labeling of the nutritional value of pet food products thus enabling product purchasers to make good nutrition and health decisions for their companion animals (WAC 16-252-061 and WAC 16-252-062).
- Prevent the possibility of cross contamination of products (WAC 16-252-150). Certain ingredients and feed additives are only safe for certain species of animals. Proper cleaning of bags, totes and non-porous containers decreases the likelihood of cross contamination. Requiring documentation of the cleanout procedures used will remind an operator of the possibility of cross-contamination and the importance of preventing it.

(2) Addresses the specific needs of pet food/specialty pet food manufacturers and distributors operating in Washington State.

Current department rules regulating pet food and specialty pet food are embedded in fifteen rule sections of chapter 16-200 WAC, Feeds, Fertilizers and Livestock Remedies. The new chapter 16-252 WAC, Commercial Feed Rules: Pet Food and Specialty Pet Food is devoted specifically to the commercial pet food/specialty pet food industry and contains only regulations that are pertinent to that industry. In addition, the new rule chapter for pet food/specialty pet food contains a number of “pet food/specialty pet food specific” definitions to better understand its contents.

(3) Is written in a clear and readable style that allows users to more easily understand and apply WSDA pet food and specialty pet food regulations.

Compare the following two examples. Both the current and new rule contains substantially the same requirements but the new rule because of format changes and the use of plain English is easier to read and understand.

Current Rule	Proposed New Rule
WAC 16-200-755(2) (d) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.	WAC 16-252-051 (4) Guarantees for microorganisms are not required when: (a) The pet food or specialty pet food is intended for a purpose other than to furnish microorganisms; or (b) The microorganisms are insignificant to the primary purpose of the product, and no specific label claims are made.
WAC 16-200-885 Commercial feed label submission. Pursuant to RCW 15.53.9013 , license applicants or licensees shall submit copies of commercial feed labels and labeling, when requested by the department with just cause, in order to determine compliance with the provisions of laws and rules	WAC 16-252-170 Label submission requirements. Pet food and specialty pet food registrants must submit copies of their labels and labeling to the department when: (1) Applying for a registration; or (2) The label is revised by the registrant; or (3) When requested by the department for reasonable cause.

(4) Uses tables to clearly and succinctly present information wherever possible and appropriate.

Notice how the current WAC 16-200-770 (Expression of guarantees) presents how certain mineral guarantees must be stated:

WAC 16-200-770(3)

(b) When required, guarantees for minimum potassium, magnesium, sulfur and maximum fluoride shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.

Now, notice how the same information is presented in the new section, WAC 16-252-072 (Expression of guarantees—Minerals in specialty pet food). Not only is the information in the table easier to read and digest, but also it is consistent with AAFCO (Regulation 4(b)(2)) whereas WAC 16-200-770(3) is not.

WAC 16-252-072(1)

(b) When stated, certain mineral guarantees must be expressed as follows:

Sodium, Salt, Potassium, Magnesium, Sulfur, Phosphorus, Fluorine, Other	
Mineral Guarantee:	Expressed as:
Minimum and maximum total sodium	Percentage (%)
Minimum and maximum salt	Percentage (%)
Minimum potassium	Percentage (%)
Minimum magnesium	Percentage (%)
Minimum sulfur	Percentage (%)
Minimum phosphorus	Percentage (%)
Maximum fluorine	Percentage (%)
Other minimum mineral guarantees	Parts per million (ppm) when the concentration is less than 10,000 ppm
Other minimum mineral guarantees	Percentage when the concentration is 10,000 ppm (1%) or greater

(5) Presents rule requirements in shorter, more focused rule sections rather than the traditional practice of presenting a wide range of information in very long, tediously sub-divided sections.

Comparing the Table of Contents of the current rule with the Table of Contents of the proposed rule, you can see how the longer sections in the current rule have generally been divided into shorter, more focused sections in the new chapter. Also, notice how the new rule section titles are more descriptive than those in the current rule.

Current Rule Sections	Proposed Rule Sections
	WAC 16-252-001 Effective date.
	WAC 16-252-005 Commercial feed regulated by this chapter.
WAC 16-200-750 Definitions and terms.	WAC 16-252-010 Commercial feed terms and definitions
	WAC 16-252-015 Feed ingredient names and definitions
WAC 16-200-755 Label format.	WAC 16-252-025 Label information and recordkeeping requirements.
WAC 16-200-760 Brand and product names.	WAC 16-252-040 Product or brand name label information required.
	WAC 16-252-042 Label information required when a drug is used.
	WAC 16-252-051 Exemptions from the guarantees required in WAC 16-252-061 and WAC 16-252-062
WAC 16-200-770 Expression of guarantees.	WAC 16-252-061 Guarantees for pet food.
	WAC 16-252-062 Guarantees for specialty pet food.
	WAC 16-252-065 Guarantees for grain mixture specialty pet food, with or without molasses.
	WAC 16-252-069 Expression of guarantees – Expressed as is.
	WAC 16-252-070 Expression of guarantees-Sliding-scale method prohibited.
	WAC 16-252-071 Expression of guarantees - Protein, amino acids, fat, and fiber in specialty pet food.
	WAC 16-252-072 Expression of guarantees - Minerals in specialty pet food.
	WAC 16-252-073 Expression of guarantees - Minimum vitamin content in specialty pet food.
	WAC 16-252-074 Expression of guarantees-Drugs.
	WAC 16-252-075 Expression of guarantees and special requirements - Pet food and specialty pet food containing any added non-protein nitrogen.
	WAC 16-252-076 Expression of guarantees - Microorganisms and enzymes.
	WAC 16-252-080 Substantiating nutritional suitability.
WAC 16-200-790 Ingredient statement.	WAC 16-252-090 Ingredient Statement terms.
	WAC 16-252-095 Drug and feed additive requirements.
WAC 16-200-795 Directions for use and precautionary statements.	WAC 16-252-100 "Directions for use" and "precautionary statement" requirements.
WAC 16-200-805 Tonnage fees.	WAC 16-252-155 Tonnage reporting and fee requirements.
WAC 16-200-815 Adulteration.	WAC 16-252-120 Adulteration of pet food and specialty pet food.
WAC 16-200-820 Screenings.	WAC 16-252-110 Screenings.
WAC 16-200-830 Nonprotein nitrogen.	
WAC 16-200-840 Artificial color.	WAC 16-252-140 Use of artificial coloring.
WAC 16-200-860 Used sacks and containers.	WAC 16-252-150 Reusing bags, totes, and containers.
WAC 16-200-865 Commercial feed license.	WAC 16-252-165 Registration requirements.
WAC 16-200-885 Commercial feed label submission.	WAC 16-252-170 Label submission requirements.
WAC 16-200-887 Good manufacturing practices.	WAC 16-252-180 Good manufacturing practices adopted.

- (6) **By incorporating applicable parts of the Association of American Feed Control Officials (AAFCO) model regulations, helps increase the flow of trade and information and promotes regulatory consistency between Washington's pet food/specialty pet food manufacturers and distributors and the manufacturers and distributors in our sister states.**

In several sections of the proposed new chapter 16-252 WAC, language has been added to ensure that the WSDA rule is consistent with AAFCO's pet food/specialty pet food model regulations requirements. For example:

- Many of the new requirements in WAC 16-252-025 (Label information and recordkeeping requirements) were added to further protect consumers, pets and industry and also make the department's pet food/specialty pet food rules more consistent with AAFCO and the regulations of our sister states:
- Similarly, WAC 16-252-040 (Product or brand name label information) is much more consistent with AAFCO's Model Regulations than the current WAC 16-200-760 (Brand and product names).
- Again, WAC 16-252-061 (Guarantees for pet food), WAC 16-252-062 (Guarantees for specialty pet food) and WAC 16-252-065 (Guarantees for grain mixture specialty pet food, with or without molasses) are much more consistent with AAFCO than the current regulations in WAC 16-200-755 (Label format).
- Finally, WAC 16-252-080 (Substantiating nutritional suitability) and WAC 16-252-095 (Drug and feed additive requirements) were added to strengthen the department's pet food/specialty pet food rules in a way that is consistent with AAFCO.